

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA**

JAMES MARTIN, Individually and on Behalf
of All Others Similarly Situated,

Plaintiff,

v.

GNC HOLDINGS, INC., JOSEPH M.
FORTUNATO, MICHAEL M. NUZZO,
ANDREW S. DREXLER, MICHAEL G.
ARCHBOLD, TRICIA K. TOLIVAR, and
PATRICK A. FORTUNE,

Defendants.

**DECLARATION OF GREGG S. LEVIN IN SUPPORT OF PLAINTIFF'S
MEMORANDUM OF LAW IN OPPOSITION TO DEFENDANTS' MOTION
TO DISMISS THE CONSOLIDATED AMENDED COMPLAINT**

1. I am a member of the law firm Motley Rice LLC, Lead Counsel for Lead Plaintiff KBC Asset Management NV in this action. I am admitted to the bars of the Commonwealth of Massachusetts, the District of Columbia, and the State of South Carolina. I was admitted *pro hac vice* in this action on January 13, 2016. *See* ECF No. 29.

2. I respectfully submit this declaration pursuant to 28 U.S.C. § 1746 in connection with Plaintiff's Memorandum of Law in Opposition to Defendants' Motion to Dismiss the Consolidated Amended Complaint and to transmit to the Court certain documents that were referred to in Plaintiff's Consolidated Amended Complaint (ECF No. 45).

3. Attached as **Exhibit A** is a true and correct copy of an email exchange between Carter Gray and John R. Telencho, Jr., forwarding an e-mail from Jennifer Jakell to numerous individuals that includes a November 19, 2013 article in *USA Today* related to dietary supplements and acacia rigidula. Exhibit A was attached as State's Exhibit 4 to the complaint filed in the action

captioned *Oregon, ex rel. Ellen F. Rosenblum v. General Nutrition Corp.*, No. 15CV28591 (Or. Cir. Ct. Multnomah Cty. Oct. 22, 2015).

4. Attached as **Exhibit B** is an article describing picamilon that was attached as State's Exhibit 2 to the complaint filed in the action captioned *Oregon, ex rel. Ellen F. Rosenblum v. General Nutrition Corp.*, No. 15CV28591 (Or. Cir. Ct. Multnomah Cty. Oct. 22, 2015).

5. Attached as **Exhibit C** is a handwritten note from the GNC Library File regarding picamilon that was attached as State's Exhibit 3 to the complaint filed in the action captioned *Oregon, ex rel. Ellen F. Rosenblum v. General Nutrition Corp.*, No. 15CV28591 (Or. Cir. Ct. Multnomah Cty. Oct. 22, 2015).

6. Attached as **Exhibit D** is the Declaration of Dr. Cara Welch that was attached as State's Exhibit 1 to the complaint filed in the action captioned *Oregon, ex rel. Ellen F. Rosenblum v. General Nutrition Corp.*, No. 15CV28591 (Or. Cir. Ct. Multnomah Cty. Oct. 22, 2015).

7. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.



GREGG S. LEVIN (*pro hac vice*)

CERTIFICATE OF SERVICE

I hereby certify that on June 20, 2016, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send a Notice of Electronic Filing to all counsel of record.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on June 20, 2016.

s/ Gregg S. Levin

Gregg S. Levin